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PATTERSON & SHERIDAN, LLP/
SEDNA PATENT SERVICES, LLC
595 SHREWSBURY AVENUE
SUITE 100
SHREWSBURY, NJ 07702

EXAMINER	
KOENIG, ANDREW Y	
ART UNIT	**PAPER NUMBER**
2611	

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Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)	
	09/597,891	HENDRICKS ET AL.	
	Examiner	Art Unit	
	Andrew Y. Koenig	2611	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *30 November 2004*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-44 and 49-55* is/are pending in the application.

4a) Of the above claim(s) *45-48* is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-44 and 49-55* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date *8/16/02, 3/17/03*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application (PTO-152)
6) ☐ Other: _____.

DETAILED ACTION

Priority

1. Applicant's claim for the benefit of a prior-filed application under 35 U.S.C. 119(e) or under 35 U.S.C. 120, 121, or 365(c) is acknowledged. Applicant has not complied with one or more conditions for receiving the benefit of an earlier filing date under 35 U.S.C. [1] as follows:

The later-filed application must be an application for a patent for an invention which is also disclosed in the prior application (the parent or original nonprovisional application or provisional application). The disclosure of the invention in the parent application and in the later-filed application must be sufficient to comply with the requirements of the first paragraph of 35 U.S.C. 112. See *Transco Products, Inc. v. Performance Contracting, Inc.*, 38 F.3d 551, 32 USPQ2d 1077 (Fed. Cir. 1994).

The disclosure of the prior-filed application, Application No. 08/912,934, fails to provide adequate support or enablement in the manner provided by the first paragraph of 35 U.S.C. 112 for one or more claims of this application. The examiner notes that originally filed claims 13, 28-30, 37, and 52 are not supported in Application No. 08/912,934. Since the claims are originally filed, they will be given an effective filing date of the instant application (2000 June 19).

2. This application repeats a substantial portion of prior Application No. 08/912,934, filed 1997 August 15, and adds and claims additional disclosure not presented in the prior application. Since this application names an inventor or inventors named in the prior application, it may constitute a continuation-in-part

of the prior application. Should applicant desire to obtain the benefit of the filing date of the prior application, attention is directed to 35 U.S.C. 120 and 37 CFR 1.78.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 13 is rejected under 35 U.S.C. 102(b) as being anticipated by U.S. Patent 5,659,350 to Hendricks et al. (Hendricks).

Regarding claim 13, Hendricks teaches a CPU, program storage database, viewer information database, external program source, and a delivery CPU as recited in the independent claim. Further, Hendricks teaches the programs comprising one or more of television programs, advertisements, promotionals, and interactive programs (col. 31, ll. 1-31).

5. Claims 14, 15, 17-19, 25-27, and 31-34 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 5,446,919 to Wilkins.

Regarding claim 14, Wilkins teaches collecting user information for one or more users in the network (col. 8, ll. 7-29), receiving program information related to available programs (col. 8, ll. 42-62), determining a program lineup based on the collected user information and the program information (col. 11, ll. 20-48), and providing the lineup to one or more terminals (col. 11, ll. 20-48).

Regarding claim 15, Wilkins teaches broadcasting the programs to the terminals in the network, there broadcast arranged according to the lineup (col. 11, ll. 20-48).

Regarding claim 17, Wilkins teaches program lineups for users (col. 11, ll. 20-48), wherein each of the lineups is determined based on information for a group of users as defined by the advertisement characteristics, wherein the is broadcast according to the lineup (col. 9-10, ll. 60-11).

Regarding claim 18, Wilkins teaches users serviced by the headend (fig. 1A, 1B).

Regarding claim 19, Wilkins teaches that each of the targeted commercials (program lineup) and the broadcast program (program segment) are provided in a separate program channel (fig. 3).

Regarding claim 25, Wilkins teaches local commercials (col. 8, ll. 56-61, col. 9, ll. 60-64), which equates to a program lineup including local avails.

Regarding claim 26, Wilkins teaches targeted commercials (col. 10, ll. 59-61), which equates to program lineups provided directly to the terminals.

Regarding claim 27, Wilkins teaches satellite distribution (col. 8, ll. 66-68).

Regarding claim 31, Wilkins teaches cable distribution (col. 8, ll. 63-68).

Regarding claim 32, Wilkins teaches satellite distribution (col. 8, ll. 63-68), which equates to using over-the-air broadcasts.

Regarding claim 33, Wilkins teaches receiving the program lineup using the interval detection decoder (col. 11, ll. 27-37), and programs are provided using the tune (second communication device)(fig. 2).

Regarding claim 34, Wilkins teaches using the vertical interval of the video signal (col. 8, ll. 48-55), which equates to a first communications means is a dedicated channel.

6. Claims 49-50 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent 5,583,560 to Florin et al. (Florin).

Regarding claim 49, Florin teaches receiving program listings on a dedicated channel (fig. 3a, label 100), which are clearly selected for packaging in order to be received, wherein the stream has the programs start time and length (col. 10-11, ll. 45-14), (which equates to program start times and dates). Florin teaches the frequency spectrum (fig. 3a), wherein the system inherently allocates transponder space, in that the system has shown how the frequencies are used. Florin teaches prices for programs as shown in figure 41, information for generating a program menu via the program listings channel (fig. 3a), which equates to a program control information signal, packaging the programs and program control information signal (see entire spectrum of fig 3a), and transmitting the programs and the program control information signal in that the signal is received (col. 10, ll. 33-44).

Regarding claim 50, Florin teaches selecting types of programs for packaging and adding addition program elements, in that Florin teaches digital program listing channel, analog channels, pay-per-view channels, and addition digital channels (fig. 3a).

Claim Rejections - 35 USC § 103

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

8. Claims 1, 2, 8, 12, and 13 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,099,319 to Esch et al. (Esch) in view of U.S. Patent 5,446,919 to Wilkins.

Regarding claim 1, Esch teaches a scheduling processor (fig. 3, label 71) for scheduling information for merging content data signals with the video signals, which equates the program instructions for packaging programs for deliver using the television program delivery system (col. 5, ll. 28-40), as shown in figure 1. Esch teaches a program storage databases (see content database – 76, live database 82, col. 5, ll. 5-11, col. 5, ll. 50-62).

Esch teaches targeted advertising (col. 6, ll. 7-11), but is silent on a viewer information database coupled to a CPU. In analogous art, Wilkins teaches a viewer information database for storing viewer information (col. 8, ll. 15-29).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch by storing viewer information database coupled to a CPU as taught by Wilkins in order to effectively transmit targeted advertising to subscribers (Wilkins: col. 6, ll. 26-42).

Esch teaches an external program source (see figure 4) coupled to the CUPU, wherein the external programs are received at the apparatus (col. 6, ll. 12-19). Further, Esch teaches a network processor for transmitting content data signals and schedule data signals as a digital stream to the modulator 85 (col. 5, ll. 50-62), which equates to a delivery control processor unit (DCPU) wherein a program control information signal is generated.

Regarding claim 2, Esch teaches master control stations (fig. 3, labels 79 and 80), which inherently has a data entry interface, however Esch is silent on interactively selecting programs for delivery. Official Notice is taken that interactively selecting programs for delivery is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch by interactively selecting programs for delivery in order to dynamically modify the programming available to users.

Regarding claim 8, the combination of Esch and Wilkins teaches a headend analyzing information, wherein the information is a number of terminals connected to the headend, and integrating the headend specific information with the program control signal, in that Wilkins teaches transmitting demographic/psychographic information about the subscribers (col. 7, ll. 15-67, col. 10, ll. 59-60).

Regarding claim 12, Esch teaches CACS studios that process source materials from internal and external sources, wherein the material includes audio, and text (col. 5, ll. 21-27). Esch teaches a quality control processor, which is part of the creation process and thus equates to creates programs based on the processed source materials (col. 5, ll. 41-49). Esch teaches a network processor (83) for formatting the content signals (col. 5, ll. 50-62), which equates to creating events comprising one or more programs. Esch teaches transmitting content and schedule data signals as a digital stream (col. 5,ll. 50-62), which equate to service including one or more events and assigning run times, but is silent on assigning run times and dates, and checking for conflicts. Further Esch is silent on adding events and service information to a menu. Official Notice is taken that assigning run times, checking conflicts, and adding the event and service to a menu are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch by assigning run times and dates, checking for conflicts, and adding the event and service to a menu in order to provide accurate information regarding events, thereby enabling the subscribers to access additional features.

Regarding claim 13, Esch teaches the programs comprising video signal comprising advertisements (col. 3, ll. 45-53).

9. Claim 3 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,099,319 to Esch et al. (Esch) and U.S. Patent 5,446,919 to Wilkins in view of U.S. Patent 5,223,924 to Strubbe.

Regarding claim 3, Esch teaches targeted advertising (col. 6, ll. 7-11), but is silent on program watched information for terminals in the delivery system. In analogous art, Strubbe teaches a database storing program information data records of watched programs (col. 3-4, ll. 59-2, col. 4, ll. 17-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch and Wilkins by using program watched information as taught by Strubbe in order to correlate targeted programming to the user, thereby increasing the effectiveness of the media.

10. Claims 4-7 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,099,319 to Esch et al. (Esch), U.S. Patent 5,446,919 to Wilkins, and U.S. Patent 5,223,924 to Strubbe in view of U.S. Patent 5,351,075 to Herz et al. (Herz).

Regarding claim 4, Esch, Wilkins, and Strubbe are silent on an optimum time. Herz teaches dynamically adjusting programming based on users (col. 6, ll. 46-68), which equates to an optimum time. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch, Wilkins, and Strubbe by determining an optimum time as taught by Herz in order to provide desirable programming during prime time viewing for the users.

Regarding claim 5, Esch, Wilkins, and Strubbe are silent on maximizing expected programs watched. Herz teaches the most requested programs are broadcast during prime time (col. 6, ll. 46-68), which equates to maximizing

expected programs watched. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch, Wilkins, and Strubbe by maximizing expected programs watched as taught by Herz in order to provide desirable programming during prime time viewing for the users.

Regarding claim 6, Esch, Wilkins, and Strubbe are silent on maximizing viewer buy rates. Herz teaches maximizing expected programs watched (col. 6, ll. 46-68), which also maximizes the buy rate in that more desirable programming is available during prime time (col. 8, ll. 39-44), which equates to maximizing the viewer buy rate.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch, Wilkins, and Strubbe by maximizing the viewer buy rate as taught by Herz in order to increase the revenue of the system while enabling the users to customize the desirable programming.

Regarding claim 7, Esch, Wilkins, and Strubbe are silent on determining an optimum mix of programs, wherein the optimum mix of programs is based on one or more program substitutes, program complements, time slice positioning, program repetitions, transponder availability, and menu positioning. Herz teaches an optimum mix based on time slice positioning during prime time (col. 6, ll. 27-68). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch, Wilkins, and Strubbe by determining an optimum mix of programs based on time slice positioning as

taught by Herz in order to increase the revenue of the system while enabling the users to customize the desirable programming.

11. Claim 9 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,099,319 to Esch et al. (Esch) and U.S. Patent 5,446,919 to Wilkins in view of U.S. Patent 5,583,560 to Florin et al. (Florin).

Regarding claim 9, Esch and Wilkins are silent on a determining menu forms and positions, providing a menu display, and providing on-the-fly menu editing. Florin teaches different menus and forms, such as different forms of displays – see figures 12-19, 27-32), along with applying changing data, which equates to on-the-fly menu editing (col. 11, ll. 8-15). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch and Wilkins by determining menu forms and positions, providing a menu display, and providing on-the-fly menu editing as taught by Florin in order to dynamically adjust to programming changes and provide current information to the user.

12. Claims 10 and 11 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,099,319 to Esch et al. (Esch) and U.S. Patent 5,446,919 to Wilkins in view of U.S. Patent 5,351,075 to Herz et al. (Herz).

Regarding claim 10, Esch and Wilkins teaches packaging the program control information signal and the programs, but are silent on a graphical allocation display and providing interactive reallocation of transponder space. In

analogous art, Herz teaches a graph of time slots for programming editing programming based on received information (col. 6, ll. 27-68), which equates to graphical allocation display and providing interactive reallocation of transponder space. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch and Wilkins by using a graphical allocation display and providing interactive reallocation of transponder space as taught by Herz in order to efficiently allocate programming by maximizing the benefits of prime time viewing thereby enabling more desirable programming to be sent to viewers.

Regarding claim 11, Esch and Wilkins are silent on using importance weighting algorithms and best fit time algorithms to assign program time slots. Herz teaches determining the most popular programs during prime time (col. 6, ll. 27-68), which equates to importance weighting algorithms and best fit time algorithms to assign program time slots. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch and Wilkins by implementing importance weighting algorithms and best fit time algorithms to assign program time slots as taught by Herz in order to increase revenue while also providing desirable programming to viewers.

13. Claims 28-30, 37, and 52 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,659,350 to Hendricks et al. (Hendricks).

Regarding claims 28 and 29, Hendricks teaches the limitations of claims 27 and 14, but is silent on C and Ku band systems. Official Notice is taken that

the use of C and Ku bands are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks by using C and Ku band satellite systems in order to diversify the system, thereby enabling the device to be used where cable television is cost-prohibitive.

Regarding claim 30, Hendricks teaches the limitations of claims 26 and 14, but is silent on programs provided over the Internet. Official Notice is taken that the use the Internet to provide programs is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks by using the Internet to provide programs is in order to diversify the system, thereby providing media through different mediums.

Regarding claim 37, Hendricks teaches the limitations of claims 36 and 14, but is silent on using an Internet Service Provider. Official Notice is taken that the use of an Internet Service Provider is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks by using an Internet Service Provider in order to enable a system to access information from different sources, thereby enabling more information to be provided to the user.

Regarding claim 52, Hendricks teaches the limitations of claims 49 and 51, but is silent on using an Internet Service Provider. Official Notice is taken that the use of an Internet Service Provider is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Hendricks by using an Internet Service Provider in order to enable a system to access information from different sources, thereby enabling more information to be provided to the user.

14. Claims 16, 24, 35, 36, and 38-40 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,446,919 to Wilkins in view of U.S. Patent 5,583,560 to Florin et al. (Florin)

Regarding claim 16, Wilkins teaches a unique program lineup determined for each terminal in the network (col. 7, ll. 15-37), and teaches providing the selected program to the user (col. 11, ll. 39-48), but is silent on receiving a program selection from a user, based on the unique lineup. In analogous art, Florin teaches a favorites menu and selecting programs from the menu (col. 3, ll. 40-44, col. 19, ll. 27-62,fig. 30), which equates to receiving a program selection from a user, based on the unique lineup. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by receiving a program selection from a user, based on the unique lineup as taught by Florin in order to facilitate easily selection of desirable programming.

Regarding claim 24, Wilkins teaches a unique program lineup determined for each terminal in the network (col. 7, ll. 15-37), and teaches providing the selected program to the user (col. 11, ll. 39-48), but is silent on receiving a program selection from a user, based on the unique lineup. In analogous art, Florin teaches a favorites menu and selecting programs from the menu (col. 3, ll. 40-44, col. 19, ll. 27-62,fig. 30), which equates to receiving a program selection

from a user, based on the unique lineup. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by receiving a program selection from a user, based on the unique lineup as taught by Florin in order to facilitate easily selection of desirable programming.

Regarding claims 35, Wilkins is silent on generating an original menu and a menu different from the original. In analogous art, Florin teaches generating menu format information to generate an original menu (see fig. 12-19) and a menu different from the original (see fig. 30). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by generating menu format information to generate an original menu (see fig. 12-19) and a menu different from the original (see fig. 30) as taught by Florin in order to provide the user with the ability to access all programs and a menu directed to the user of the device, thereby facilitating program selection.

Regarding claims 36, Wilkins is silent on interactive services, subscription services, and data services. In analogous art, Florin teaches interactive services and subscription services (such as ordering programming as shown in figure 41) along with data services (such as ordering products as shown in figures 44-50). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by implementing interactive services, subscription services, and data services as taught by Florin in order to enable the user to easily access and order products and services using the same device.

Regarding claims 38, Wilkins and Florin are silent on online services for reserving airline seats. Official Notice is taken that online services for reserving airline seats are well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins and Florin by using online services for reserving airline seats in order to facilitate the user in purchasing products online.

Regarding claims 39, the combination of Wilkins and Florin teaches subscription services based on a calendar period, in that the user order a program as shown in figure 41, col. 23, ll. 13-42 of Florin.

Regarding claims 40, Wilkins and Florin are silent on interactive services including education programs and games. Official Notice is taken that the use of interactive services including education programs and games is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins and Florin to use interactive services including education programs and games in order to provide useful information to the user thereby increasing interactivity.

15. Claims 20 and 21 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,446,919 to Wilkins in view of U.S. Patent 5,223,924 to Strubbe.

Regarding claim 20, Wilkins teaches demographic information (col. 7, ll. 15-37), which is based upon the programming that is selected by the user (col.

10-11, ll. 54-5), which equates to user-provided data. However, Wilkins is silent on programs watched information. In analogous art, Strubbe teaches a database storing program information data records of watched programs (col. 3-4, ll. 59-2, col. 4, ll. 17-20). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by using program watched information as taught by Strubbe in order to correlate targeted programming to the user, thereby increasing the effectiveness of the media.

Regarding claim 21, the combination of Wilkins and Strubbe teaches program viewing times and channel tuning information (Wilkins:col. 10-11, ll. 54-5, Strubbe: col. 4, ll. 33-38), but is silent on programs purchased information. Official Notice is taken that the use of purchased information is well known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins and Strubbe by monitoring purchased information in order to more effectively target the user with desirable programming.

16. Claim 22 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,446,919 to Wilkins and U.S. Patent 5,223,924 to Strubbe in view of U.S. Patent 5,351,075 to Herz et al. (Herz).

Regarding claim 22, Wilkins and Strubbe are silent on an optimum program lineup and packaging the optimum lineup. Herz teaches dynamically adjusting programming based on users (col. 6, ll. 46-68), which equates to an optimum program lineup and packaging the optimum lineup. Therefore, it would

have been obvious to one of ordinary skill in the art at the time the invention was made to modify Esch, Wilkins, and Strubbe by determining an optimum program lineup and packaging the optimum lineup as taught by Herz in order to provide desirable programming during prime time viewing for the users.

17. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,446,919 to Wilkins and U.S. Patent 5,223,924 to Strubbe in view of U.S. Patent 55,027,400 to Baji et al.

Regarding claim 23, Wilkins is silent on program category information, channels assignments, programs on channels, program start/stop times, durations, program descriptions, and sample clips. In analogous art, Strubbe teaches type of program (claimed program category information including names of program categories), channels assigned to programming, program start and length (claims program start/stop time and duration), text summary (program description) for each program, which equates to programs available on each of the channels (col. 3-4, ll. 59-2, col. 6, ll. 25-29).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by program category information, channels assignments, programs on channels, program start/stop times, durations, program descriptions as taught by Strubbe in order to gather more detailed information on programming thereby enabling the system to effectively target content..

Wilkins and Strubbe are silent on sample video clips. In analogous art, Baji teaches sample video clips (col. 11, ll. 34-47), which equates to sample video clips. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins and Strubbe by using sample video clips as taught by Baji in order to preview information and determine whether the purchase the program.

18. Claims 41-44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,446,919 to Wilkins in view of U.S. Patent 5,351,075 to Herz et al. (Herz).

Regarding claim 41, Wilkins is silent on receiving marketing information, determining importance for each program, assigning a weighting factor, and positioning each of the available programs within the lineup. In analogous art, Herz teaches dynamically adjusting programming based on users (col. 6, ll. 46-68), receiving marketing information, determining importance for each program, assigning a weighting factor, and positioning each of the available programs within the lineup. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by receiving marketing information, determining importance for each program, assigning a weighting factor, and positioning each of the available programs within the lineup as taught by Herz in order to provide desirable programming during prime time viewing for the users.

Regarding claim 42, Wilkins is silent on maximizing yield management value. Herz teaches the most requested programs are broadcast during prime time (col. 6, ll. 46-68), which equates to maximizing yield management value. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by maximizing yield management value as taught by Herz in order to provide desirable programming during prime time viewing for the users.

Regarding claim 43, Wilkins is silent on maximizing yield management value. Herz teaches maximizing yield management value (col. 6, ll. 46-68). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by maximizing yield management value as taught by Herz in order to increase the revenue of the system while enabling the users to customize the desirable programming.

Regarding claim 44, Wilkins is silent on marketing information comprising profit value and program viewed information. Herz teaches an optimum mix based on time slice positioning during prime time (col. 6, ll. 27-68), which maximizes profit for programs viewed. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Wilkins by marketing information comprising profit value and program viewed information as taught by Herz in order to increase the revenue of the system while enabling the users to customize the desirable programming.

19. Claim 51 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,583,560 to Florin et al. (Florin).

Regarding claim 51, Florin teaches program types of analog channels, pay-per-view channels, and addition digital channels (fig. 3a), which equates to pay-per-view and subscription programs, interactive programs and data services. Florin is silent on static programs and live event programs. Official Notice is taken that static programs and live event programs are known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Florin by using static programs and live event programs in order to provide different information and types of media to the user, thereby increasing the information available to the user.

20. Claim 53 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,583,560 to Florin et al. (Florin) in view of U.S. Patent 5,557,316 to Hoarty et al. (Hoarty).

Regarding claim 53, Florin is silent on generating cable franchise information, and combining the information with the program control information signal and the programming package. In analogous art, Hoarty teaches a cable franchise information of ICTV (col. 6, ll. 14-17), which is displayed at the user terminal as shown in figures 33 and 34, which equates to generating cable franchise information and sending the cable information along with the program control information and programming package as shown in figure 10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the

invention was made to modify Florin by generating cable franchise information, and combining the information with the program control information signal and the programming package as taught by Hoarty in order to identify the cable franchise thereby creating market presence for the product.

21. Claim 54 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,583,560 to Florin et al. (Florin) in view of U.S. Patent 5,446,919 to Wilkins and U.S. Patent 5,027,400 to Baji et al. (Baji).

Regarding claim 54, Florin teaches displaying a program schedule and program menu (fig. 3a, 3b, 12-19), which equates to developing a program schedule and a program menu, but is silent on identifying time slots for local avails. In analogous art, Wilkins teaches identifying time slots for local avails (col. 8, ll. 56-61, col. 9, ll. 60-64). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Florin by identifying time slots for local avails as taught by Wilkins in order to provide local commercials to viewers.

Further, Florin is teaches updating the program information (col. 11, ll. 8-15), which equates to editing the program schedule and program menu.

Florin is silent on identifying external programs comprising gathering programs from external sources and converting to a standard format, and identifying internal programs comprising accessing stored programs and converting to a standard format. In analogous art, Baji teaches a real-time external broadcast source (fig. 4, label 101) and internal sources (fig. 4, label

103) and converting to a standard format by modulator (fig. 4, 119). Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Florin by gathering programs from external sources and converting to a standard format, and identifying internal programs comprising accessing stored programs and converting to a standard format as taught by Baji in order to provide different sources of information to the user.

Florin is silent on identifying live programs, comprising signaling live program source feeds. Official Notice is taken that signal live source feeds is known in the art. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Florin by signaling live program source feeds in order to prepare the system for receiving the incoming signal, thereby enabling the system to effectively process in the incoming signal.

Florin as shown in figure 3a, teaches combining all the programs (as discussed above: external, internal, and live) and generating program signals based on the programming (figure 3b col. 10-11, ll. 33-14).

22. Claim 55 is rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,583,560 to Florin et al. (Florin), U.S. Patent 5,446,919 to Wilkins, and U.S. Patent 5,027,400 to Baji et al. (Baji) in view of U.S. Patent 5,557,316 to Hoarty et al. (Hoarty)..

Regarding claim 55, Florin is silent on generating cable franchise information, and combining the information with the program control information signal and the programming package. In analogous art, Hoarty teaches a cable

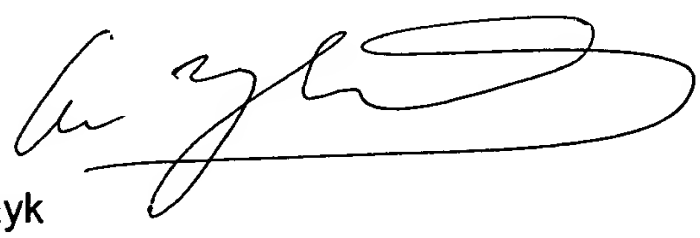
franchise information of ICTV (col. 6, ll. 14-17), which is displayed at the user terminal as shown in figures 33 and 34, which equates to generating cable franchise information and sending the cable information along with the program control information and programming package as shown in figure 10. Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Florin by generating cable franchise information, and combining the information with the program control information signal and the programming package as taught by Hoarty in order to identify the cable franchise thereby creating market presence for the product.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).



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